

THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.6827 of 2006

Dt.5.4.2006

Between:

V.Laxmaiah and others
Petitioners

...

And

The Assistant City Planner, Circle No.1,
Municipal Corporation of Hyderabad,
Hyderabad and another

...

Respondents

ORDER:

Petitioners question the action of the first respondent dated 2.4.2006, orally threatening the petitioners to hand over their premises bearing Nos.22-6-1041, 22-6-1040 and 22-6-1039 situated at Kalikaman, Hyderabad, without following the Land Acquisition proceedings as illegal and arbitrary and contrary to Sections 146 and 147 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act') and also the order dated 16.3.2006 made in W.P.No.5154 of 2006 and to restrain the respondents from demolishing the said premises without following the due process of law.

Petitioners herein are the absolute owners and possessors of Mulgie Nos.22-6-1041, 22-6-1040 and 22-6-1039 respectively situated Kalikaman, Hyderabad, by virtue of registered sale deeds executed in their favour by the vendors. The petitioners are petty traders carrying out their avocations of Hairdressing, tailoring and bookbinding. While so, the respondent Corporation has taken up road widening programme wherein the said shops of the petitioners are completely effected in the said road widening and the first respondent orally threatening the petitioners on 2.4.2006 to handover their mulgies without following the procedure prescribed under the Land Acquisition Act, 1894.

Heard the learned counsel for the petitioners and the learned Standing Counsel on behalf of the respondents.

The learned counsel for the petitioners submits that the action of the respondents in threatening the petitioners orally to hand over their property without following the due procedure prescribed under law and without paying compensation at the prevailing market value either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Act.

No doubt widening/laying of the road is in the public interest. But while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law. This Court disposed of number of writ petitions directing the respondents not to demolish the property of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case, this writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the property of the petitioners without following due process of law either under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.

The writ petition is disposed of accordingly. No costs.

V.ESWARAIAH, J.

5.4.2006

Note: Issue copy within two days

kpr B.O.